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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,914	02/04/2004	Gaston Glock	HPBC C-95A	3481
23474 7590 07/02/2008 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
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CHAMBERS, TROY				
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3641				
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07/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/771,914

Applicant(s)

GLOCK, GASTON

Examiner

Troy Chambers

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/20/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-15, 17, 18, 20, 22-26 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15, 17, 18, 20, 22-26, and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/20/2008 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the manner in which the weapon is actuatable between an inactive state which prevents firing and an active state which permits firing; the manner in which the weapon is placed in the activated/deactivated state must be shown or the feature(s) canceled from the claim(s).¹ While the applicant has provided an amended drawing showing the location of the electromagnetic lock, it does not show how the lock is operative to activate/deactivate the weapon. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not provide antecedent basis for any of the claim language which has led to the difficulty in understanding of the claimed invention. For example, claim 7 recites, "an inactive state which prevents firing." However, the specification refers to an inactive weapon as one being "locked". It does not mention anything about a weapon in an inactive state which prevents firing and an active state which permits firing. Also, where in the specification is there recited an activation code? The examiner can only find an "activation signal". Where in the

¹ The specification defines the activated state as the unlocking of an electromechanical locking

specification can be found the phrase "continuous signal"? Where in the specification can one find "maintaining the weapon in the active state *exclusively dependent* upon the monitored strength of the continuous signal being at or above a minimum signal strength." Where can the phrase "solely by monitoring the strength of the continuous signal" be found?

4. The examiner will note that the present method claims were not part of the original specification.
5. Applicant's addition of the new claims with conflicting terms and limitations that do not have antecedent basis in the specification has created confusion and prolonged prosecution of this application.
6. As a result, the examiner will place the burden on the applicant to provide support for **each** limitation of **each** pending claim by referring to the specification by page and line number and by referring to the drawings by reference and figure number. For example, applicant's response should indicate where in the specification an "activation code" is mentioned.
7. The amendment filed 05/14/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The specification does not describe the location of the electromechanical locking mechanism as being where the applicant has identified it in the amended drawings. The specification clearly

mechanism which the specification admits is not shown.

disclosed the mechanism as being "not illustrated" so how can it now appear in the slide area of the firearm?

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-15, 17, 18, 20, 22-26 and 29-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the neither the drawings nor the written specification describe how or in what manner the weapon is placed in the active state or deactivated as required in claims 7, 20, and 29. The examiner can find no disclosure whatsoever that describes the means by which a gun is enabled or disabled based on the authentication of the user. The disclosure makes no mention of "maintaining the weapon in the active state *exclusively* dependent upon the monitored strength of the continuous signal."

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4. Claims 26 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, claim 26 requires either the name or picture of the authorized user to be displayed on an indicator of the identification unit. However, the specification does not describe how or in what manner this function is achieved. Merely pushing a function key does not result in the display of a picture or name of user. How does the identification unit know which user is present? Is the data stored somewhere in a processor's memory? Where is this disclosed in the specification?

5. Claim 30 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 30 recites subject matter directed the avoiding of an interfering signal wherein the strength of the received signal includes the field strength of the potential interfering signal. There is no such disclosure in either the original specification or drawings.

6. Claims 7-15, 17, 18, 20, 22-26 and 29-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 7, 20 and 29 recite the phrase "maintaining the weapon in the active state exclusively dependent upon the monitored strength of the continuous signal being at or above a minimum signal strength, and regardless of a frequency of the continuous signal or either the presence or absence of the activation code, so as to avoid a deactivation of the readiness of the weapon to fire by an interfering transmitter solely by monitoring the strength of the continuous signal."

8. There are several problems with this phrase. First, it is not known what is meant or encompassed by this phrase because the specification does not define "active state". As discussed above, applicant uses terminology that does not appear in the specification. What does it mean to have a weapon in the active state? What weapon is the applicant referring to since there is none recited in the claims? In the specification, the terms "exclusively" and dependent are used in conjunction with the phrase "maintaining the readiness of a weapon to fire." There is no mention of "active state". What is "readiness of a weapon to fire?" When is a weapon not "ready" to fire? The above errors make the scope of the claims unclear.

9. It is not clear what is meant or encompassed by the phrase "exclusively dependent upon the monitored strength of the continuous signal being at or above a minimum signal strength." Applicant discloses that when an activation signal is sent the weapon is made ready to fire by "the unlocking of an electromechanical locking mechanism" which is admittedly not shown. As discussed above, applicant does not disclose how or in what manner the electromechanical locking mechanism works. While locking mechanism are known to those of ordinary skill in the art, it is imperative

that the activation and deactivation of the weapon be disclosed in detail (including the details of the lock) since applicant claims that there is no other way to deactivate the weapon other than monitoring the strength of the signal. Does the electromechanical device have its own power supply? If so, would not the weapon be placed in the inactive state if the power failed or if someone with a superior magnetic device or some type of impulse disabled the lock? The lock would be disabled but if the transmitter were a distance away, it would continue to transmit the continuous code.

10. Additionally, the phrase discussed above appears to recite a desired result rather than positively recited method steps and structural limitations. How does one maintain a weapon in an active state "exclusively dependent upon the monitored strength? Would it be easier to recite "a continuous uncoded signal?"

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. **The following rejections have been applied as the claims can best be understood in view of the objections/rejections cited above.**

13. Claims 7-11, 13 and 14, 17, 18, 20, 22, 29 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 9804880 issued to Reiner (equivalent U.S. Patent 6510642 issued to Reiner will be used in the rejection). Reiner discloses a method of controlling the use of a weapon 4.

14. With respect to claim 7, Reiner discloses transmitting from an ID unit 19 (unit 19 is a watch that is separate from the weapon as shown in Figs. 1 and 4) a signal that includes an activation code 30 (col. 10, ll. 1-4) or may be un-coded (col. 10, ll. 57-62) and a continuous signal (ultrasonic signal sent by distance meters 37 as discussed in Fig. 2 and col. 11, ll. 33-52); the weapon 4 has a transmission/receiving unit 18 that receives via an aerial 31 the ID code 30 sent by the ID unit 19 via aerial 31 (Fig. 2); the gun 4 receiver 18 upon receipt of the correct ID code 30 places the weapon in the active state (col. 10, line 5 to col. 11, line 3); after the weapon is in the active state the distance meters continue to measure the ultrasonic signals sent to the weapon; if a pre-determined distance is exceeded, the weapon will not activate release element 15 (col. 11, ll. 4-53).
15. With respect to claim 8, refer to col. 10, ll. 5-14.
16. With respect to claims 9 and 10, refer to col. 18, ll. 50-55.
17. With respect to claim 11, refer to col. 27, ll. 30-34, disclosing a sensor in the form of an optical light barrier.
18. With respect to claims 13 and 14, refer to col. 9, ll. 32-37, which disclose the capability of the device to use radio signals.
19. With respect to claim 17, the continuous signal is not disclosed as being coded. In any event, Reiner provides for both coded and uncoded signals (col. 10, ll. 56-62).
20. With respect to claim 18, Reiner discloses that the ID devices are capable of being provided with control information. (Col. 15, ll. 30-34).
21. With respect to claim 20, refer to Fig. 2 and 4 and the rejection of claim 7.

22. With respect to claims 22 and 32, Reiner discloses the use of radio signals (col. 2, ll. 51-56 and col. 9, ll. 32-37).

23. Claims 7-10, 12-15, 18, 29, 30, 31 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Funfgelder.

Claim Rejections - 35 USC § 103

24. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

25. Claims 12 and 24 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Reiner in view of WO 01/18332 issued to Funfgelder. Reiner discloses a method of controlling the use of a weapon as described above. However, Reiner does not disclose the wristband features of claims 12, 24 and 28. Funfgelder discloses such features. Specifically, Funfgelder discloses a bracelet similar to a watch that has a continuous sensor wire with contact surfaces in the clasp of the band. If the band is cut or the clasp is opened, then a release previously issued by the sensor is reset. The legitimate owner of the weapon can deactivate it at any time by opening the clasp of the wristband. At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the weapon control system of Reiner with the wristwatch disabling features of Funfgelder. The suggestion/motivation for doing so would have been to allow the user of the firearm to disable the weapon in the event that an unauthorized individual gained access to it in the presence of the user.

26. Claims 15, 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of the applicant's admissions in the specification and applicable case law. Reiner discloses the claimed invention as discussed above except for the limitations requiring infrared (claim 15) and ultrasonic signals (claim 15). The applicant expressly admits that such signals are known in the art ([0004]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Reiner with the various signals claimed and admitted by applicant to be prior art since the Examiner takes Office Notice of the equivalence of radio signals, infrared and ultrasonic signals for their use in the firearm security art and the selection of any one of these known equivalents to communicate would be within the level of ordinary skill in the art.

27. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of US 6260300 issued to Klebes. Reiner discloses a security system as discussed above with the exception of the wake up circuit. Klebes discloses such a circuit (col. 3, ll. 61-65). At the time of the invention, one having ordinary skill in the art would find it obvious to provide the security system of Reiner with the wake up circuit of Klebes. The suggestion/motivation for doing so would have been to provide the capability to limit power consumption when the device is not in use.

Response to Arguments

28. Applicant's arguments filed 06/20/2008 have been fully considered but they are not persuasive.

29. With respect to the application of US 6510652 issued to Reiner, applicant's argument is totally dependent on the combination of the '652 Reiner patent and patent application 20020032976, also issued to Reiner. However, the '976 reference was not used in the rejection of the claims. The '652 stands alone and is valid for all that it contains.

30. Additionally, the claims of a reference do not trump what is disclosed in the specification. If a claim requires a pencil with one eraser, do we ignore the fact that the specification discloses an embodiment in which 2 erasers are used?

31. In any event, Reiner clearly maintains the weapon in the active state "exclusively dependent upon the monitored strength of the continuous signal since Reiner clearly discloses that the constant signal is uncoded and further provides that only the distance is measured after activation.

32. Applicant's further arguments are addressed in the revised rejection above.

Conclusion

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is 571-272-6874 and whose email address is troy.chambers@uspto.gov. The examiner can normally be reached on M-F from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached on 571-272-6873. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Troy Chambers/
Primary Examiner
Art Unit 3641

06/29/2008

